IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: ROBIBERO	)	Group Art Unit: 3622
Serial No.: 09/940,117	)	Examiner: J. Van Bramer
Filed: August 28, 2001	)	Attorney Docket: 15662
For: APPARATUS AND METHOD FOR USING EQUIPMENT REMOTE ...	)	Confirmation No.: 3920

July 18, 2009

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Honorable Sir:

In the Examiner's Answer mailed May 27, 2009, the Examiner raised certain new points of argument. Accordingly, this Reply Brief is being filed in response to the Examiner's Answer.

(i) *Status of Claims:*

Claims 1-17 are cancelled.

Claims 18-39 remain pending in the application and presently stand rejected.

This appeal is taken as to all of the rejected claims.

(ii) *Grounds of Rejection to be Reviewed on Appeal:*

1. Whether Claims 36 and 37 are patentable under 35 U.S.C. 112, second paragraph;

2. Whether Claims 18-27, 37, and 39 are patentable under 35 U.S.C. 112, first paragraph;

3. Whether Claims 38 and 39 are patentable under 35 U.S.C. 112, second paragraph;

4. Whether Claims 18-20 and 22-39 are patentable under 35 U.S.C. 103(a) over Gronemeyer et al. (U.S. Patent Number: 6,363,359) in view of Ives et al. ("After the Sale: Leveraging Maintenance with Information Technology", MIS Quarterly, Vol. 12, No 1, March 1988, pp 7-21); and

5. Whether Claim 21 is patentable under 35 U.S.C. 103(a) over Gronemeyer et al. in view of Ives et al. in further view of Palme et al. (RFC 2557, MIME Encapsulation of Aggregate Documents, such as HTML).

(iii) *Argument:*

The rejection of Claims 36 and 37 under 35 U.S.C. 112, second paragraph:

In the Examiner's Answer at page 19, the Examiner stated:

> Independent Claims 18 and 35 recite the limitation "at least one of a usage parameter, an environmental parameter, and mechanical deterioration. Claims 36 and 37 depend from Claims 18 and 35 respectively and attempts to require that the operating parameter include said usage parameter and that said usage parameter is one of run time, trips per hour and cycle time. The issue is that the scope of independent claims 18 and 35 do not require a usage parameter in order to infringe upon the claims. This is because the scope of the independent claims includes instances in which the only operating parameter is an environment parameter or instances in which the only operating parameter is a mechanical deterioration. Dependent claims which are directed toward features that are optional or not required by the independent claim fail to further limit the claimed subject matter of the independent claim and as such they are properly rejected under 35 USC 112, second paragraph.

The Examiner' statement that ". . . the scope of the independent claims includes instances in which the only operating parameter is an environment parameter or instances in which the only operating parameter is a mechanical deterioration" ignores the fact that the scope of the independent claims also includes instances in which the operating parameter is a "usage parameter". The dependent Claims 18 and 35 positively recite that the usage parameter is included in said operating parameters, for purposes of the same claims. Claims 18 and 35 further define the usage parameter, thereby particularly pointing out and distinctly claiming the subject matter which Appellant regards as the

invention. Accordingly, the wording of Claims 36 and 37 meet the requirements of 35 U.S.C. 112, second paragraph.

The rejection of Claims 18-27, 37 and 39 under 35 U.S.C. 112, first paragraph:

In the Examiner's Answer at pages 19-20, the Examiner stated:

> The applicant's attorney argues that support for the limitation "an input means located at and connected to an elevator installation or an escalator installation for receiving dynamic parametric data information related to electrical and mechanical operating parameters of customer equipment in the installation being remotely monitored" of Claim 18 can be found in the Specification on Page 4, Lines 13-15; Page 6, line 29 through Page 7, line 5, and Figure 1.

Further in the Examiner's Answer at pages 24-26, the Examiner stated:

> Based upon the applicant specification on Page 6, line 19 through Page 7, line 5, an example of the claimed "customer equipment" is an "elevator system or escalator system". The customer equipment is monitored by a remote monitor interface that is connected to data points and is monitoring operating conditions represented by parametric data. Thus, the remote monitor interface is receiving parametric data, but is remote from the customer equipment. According to the claim the customer equipment is in the elevator or escalator installation. Thus the remote monitor interface is remote from the elevator or escalator installation and cannot be the claimed "input means" because it is not "located at and connected to the elevator system". The remote monitor interface may be part of an existing control or safety system which according to the specification is not shown that is installed with the equipment system or a separate unit connected to an existing control or safety system. However, since the specification fails to disclose how the control or safety system is integrated with the customer equipment, it is unclear as to whether the remote monitor is "located at and connected to the elevator system". A control system or a safety system would likely be connected in some fashion to the elevator system, but the location of the control system may be located at location different from the elevator system. Since the remote monitor interface is remote, one would expect that the control system or safety system is remote from the elevator system. Thus, the applicant's specification does not require that the remote monitor interface is "located at and connected to the elevator system" as recited by the claim limitation. The remote monitor interface then transmits the data it received from the equipment system to a remote data collector or concentrator. Since the remote data collector or concentrator is receiving parametric data it could be the claimed "input means", but since the remote monitor is remote from the elevator installation, and is transmitting the parametric data to a remote data collector or concentrator, the remote data collector or concentrator is remote from the elevator installation and thus cannot be "located at and connected to the elevator system". The applicant has failed to disclose where in the specification the Examiner can find support for the claimed limitations and as such the 35 USC 112, first paragraph rejection for a lack of written description is proper.

The Examiner correctly recognizes the remote monitor interface **14** of the specification as the recited "input means". (See also Claim 24, describing the "input means" as including the remoter monitor interface **14**). However, the Examiner is mistaken that the "specification does not require that the remote monitor interface is 'located at and connected to the elevator system' as recited by the claim limitation".

In contrast to the Examiner's position, Appellant describes that the remote monitor interface **14** is "preferably part of an existing control or safety system (not shown) installed with the equipment system **12**." (Specification at page 7 lines 1-2, emphasis added). In the specification at page 6, lines 22-23, Appellant also states that the equipment system **12** is ". . . for example an elevator system or escalator system . . . ." (Emphasis added). The specification further provides that the remoter monitor interface 14 "transmits the parametric data from the equipment system 12 via a data transfer means 16 to a remote data collector or concentrator 18". (Specification at page 7, lines 3-5, emphasis added).

Contrary to the Examiner's assertions, Appellant has not failed to disclose where in the specification the Examiner can find support for the claimed limitations. Appellant's specification clearly discloses that the elevator or escalator system **12** preferably has the input means or remote monitor interface **14** installed therewith for transmitting data from the system **12** to a remote data concentrator **18**. Support for the limitation "an input means located at and connected to an elevator installation or an escalator installation" is plainly found in the specification at least at page 6, lines 22-23, and page 7, lines 1-5. Accordingly, the rejection of Claims 18-27, 37 and 39 under the first paragraph of 35 U.S.C 112 is improper and should be withdrawn.

The rejection of Claims 38 and 39 under 35 U.S.C. 112, second paragraph:

In the Examiner's Answer at page 26, the Examiner stated:

> Independent Claims 18 and 35 recite the limitation "at least one of a usage parameter, an environmental parameter, and mechanical deterioration. Claims 38 and 39 depend from Claims 18 and 35 respectively and attempts to require that the operating parameter include said environmental parameter and that said environmental parameter is one of temperature changes, utility power, and weather. The issue is that the scope of independent claims 18 and 35 do not require an environmental parameter in order to infringe upon the claims. This is because the scope of the independent claims includes instances in which the only operating parameter is an usage parameter or instances in which the only operating parameter is a mechanical deterioration. Dependent claims which are directed toward features that are optional or not required by the independent claim fail to further limit the claimed subject matter of the independent claim and as such they are properly rejected under 35 USC 112, second paragraph.

The Examiner' statement that " . . . the scope of the independent claims includes instances in which the only operating parameter is an usage parameter or instances in which the only operating parameter is a mechanical deterioration" ignores the fact that

the scope of the independent claims also includes instances in which the operating parameter is an "environmental parameter". The dependent Claims 38 and 39 positively recite that the environmental parameter is included in said operating parameters, for purposes of the same claims. Claims 38 and 39 further define the environmental parameter, thereby particularly pointing out and distinctly claiming the subject matter which Appellant regards as the invention. Accordingly, the wording of Claims 38 and 39 meet the requirements of 35 U.S.C. 112, second paragraph.

The rejection of Claims 18-20 and 22-39 under 35 U.S.C. 103(a):

Claim 18:

In the Examiner's Answer at page 26-30, the Examiner stated:

Claim 18:

The applicant argues that Gronemeyer does not disclose an "input means" that receives parametric information as recited by the claim limitations. The examiner notes that the claim limitation actual recites "an input means" "for receiving parametric information" and thus the input means must be able to receive parametric information, but the actual receipt of the parametric information is not required by the claim limitation.

Regardless, the Gronemeyer reference discloses in Col 2, lines 41-57 that a web server (a remote "input means" "connected to" the customer equipment) queries a sentinel (a local "input means" "located at and connected to" the customer equipment) that resides on the client, the sentinel queries the client computing device ("customer equipment that is remotely monitored) and receives information regarding needed goods and services, including identifying needed replacements for existing hardware and/or software. Thus, Gronemeyer discloses two different "input means", one that is remotely monitoring the customer equipment and receiving information and one that is installed at and connected to the customer equipment and receiving information. Gronemeyer further discloses in Col 9, lines 1-20, that the computing device ("customer equipment") is expected to operate in a networked environment using logical connections to one or more computing devices, where remote computing devices can be configured as having some of all of the features of the computing device. Gronemeyer further disclose in Col 9, lines 1–20 that the computing device may be embodied as single devices, or as a combination or separate components. Thus sentinel is also disclosed as an "input means" that remotely receives information and is located at and connected to the customer equipment. Further examples of an "input means" can also be found in Gronemeyer. Col 4, lines 5-13 discloses the sentinel transmitting the data to a user of the client computing device. The user in this instance can be an "input means" because they are receiving information from the sentinel that is presented to the user. The user, in this case is located at the computer but no physical connection exists unless one considers that the user is able to elect what information is sent to the web server. In order to make an election a connection of some type must occur. Given the 35 USC 112, first paragraph deficiencies of the claim, any one of these interpretations can accurately represent the claimed "input means".

The next issue regarding the argument is the type of information. Does the information disclose by Gronemeyer represent parametric information? The Merriam-Webster dictionary defines "parametric" as:

1 a: an arbitrary constant whose value characterizes a member of a system (as a family of curves); also: a quantity (as a mean or variance) that describes a statistical population
b an independent variable used to express the coordinates of a variable point and functions of them — compare PARAMETRIC EQUATION
2: any of a set of physical properties whose values determine the characteristics or behavior of something <parameters of the atmosphere such as temperature, pressure, and density>
3: something represented by a parameter: a characteristic element; broadly: CHARACTERISTIC, ELEMENT, FACTOR <political dissent as a parameter of modern life>4: LIMIT, BOUNDARY —usually used in plural <the parameters of science fiction>

Given the applicants example of parametric data in the specification:
Abstract: "parametric data information" is related to the "operating parameters of the equipment"
Page 2, lines 3-5: example of "parametric data" would be "functional, performance, and environmental data.

The examiner has interpreted the term "parametric" to be consistent with the second definition in Merriam-Webster: Any of a set of physical properties whose values determine the characteristics or behavior of something. Gronemeyer discloses in Col 3, line 11- Col 4, line 24 that the information includes information regarding the physical properties and characteristics of the system. The parametric data includes such things as the number of hard drives, the hard drive capacity, and the maximum available storage. Gronemeyer also discloses in Col 2, lines 41-47 that the sentinal determination can include the identification of needed replacements for existing hardware and/or software. This too would be considered parametric data since a determination regarding the characteristics or behavior is made in order to determine that replace is necessary. Thus, it is clear, contrary to the applicant's arguments, that Gronemeyer discloses an "input means" "for receiving dynamic parametric data information" and the limitations of the claims as currently written have been met.

The Examiner is improperly reading the term "dynamic" and related limitations out of the Appellant's claims. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). For example, the Examiner has incorrectly stated that "the claim limitation actual recites 'an input means' 'for receiving parametric information'". Claim 18 instead recites " . . . an input means located at and connected to an elevator installation or an escalator installation for receiving dynamic parametric data information related to electrical and mechanical operating parameters of customer equipment in the installation being remotely monitor, said dynamic parametric data information being suitable for service purposes, said operating parameters including at least one of a usage parameter, an environmental parameter and mechanical deterioration". (Emphasis added).

The "sentinel" of Gronemeyer has been identified by the Examiner as a locally installed and connected "input means". However, as stated in Gronemeyer at col. 2, lines 41-57, the sentinel identifies needed replacements for hardware and/or software, as well as suggests procurement of hardware or software based on currently installed products, i.e., the static configuration data of the inspected drive. The Gronemeyer sentinel clearly is not configured for receiving dynamic parametric data related to operating parameters such as a usage parameter, an environmental parameter, and mechanical deterioration of an elevator or an escalator, as recited in the present claims. It is clear that Gronemeyer does not disclose, teach, or fairly suggest "an input means located at and connected to an elevator installation or an escalator installation for receiving dynamic parametric data information" as recited in Claim 18. Accordingly, the rejection of Claim 18 under 35 U.S.C. 103(a) should be withdrawn.

Claims 18, 28, and 35:

In the Examiner's Answer at pages 30-32, the Examiner stated:

Claims 18, 28, and 35:

1. The applicant argues that Claims 18 and 35 recite that the dynamic parametric data information is suitable for service purposes, and Claim 28 recites "storing the dynamic parametric data information in an equipment database storage device in a form suitable for determining when to take corrective action and taking corrective action at the installation based upon the stored dynamic parametric data information. The applicant argues that the parametric information disclosed by Gronemeyer is static parametric information and not dynamic parametric information. However, Gronemeyer discloses in Col 2, lines 41 — 57; and Col 3, line 11 through Col 4, line 24 that information gathered included information needed to identify needed replacements for existing hardware or software including the maximum available storage space. If the information was static as the applicant contends then it does not change, and as such, the system would not be able to operate as claimed because it would not be possible to identify when a replacement is needed. Additionally, the maximum available storage space information is also dynamic since it changes based upon the number of items stored in storage. Note that the inclusion of the term available requires dynamicity, because it needs to determine how much space is left to be used. If static information was the intent of the disclosure, then Gronemeyer could have used the parameter of maximum storage space instead of the recited maximum available storage space. Thus it is clear that the parameter information disclosed by Gronemeyer includes dynamic parametric information.

2. The applicant argues that Claims 18, 28, and 35 recite that the equipment database storage device receives and stores the dynamic parametric data information in a form suitable for determining when to take corrective service action at the installation based upon the dynamic parametric data information, and that Gronemeyer does not mention determining when to take corrective service action at the installation based upon the log file data. However, the limitations of the claims as currently written do not require that such a determination be made. The claim limitation at currently written is for an

equipment database storage device that has a means for receiving and storing dynamic parametric information. The information that is received and stored is already in a form suitable for a determining action to be made. Regardless, the Gronemeyer reference discloses, in Col 2, lines 41-47; Col 3, line 11 through Col 4, line 4; and Col 5, lines 47-67, that first the sentinel (an input means) receives log file information regarding the properties that are monitored on the client system, then the sentinel transmits this information to the web server (an input means) . The Gronemeyer reference discloses in Col 2, lines 41-47, that the sentinel (an input means) determines the need for replacing hardware and/or software. Gronemeyer further discloses in Col 5, lines 47 through 67 and Col 6, lines 15-19 that the sentinel may just gather all of the data from the client system and send it to the web server, and the web server determines what offers to provide based upon the information received. Thus it is clear the Gronemeyer discloses a storage device that is remote from the client system, and connected to the input means. The storage device receives and stores data that is used to determine an action to be performed.

The Examiner states that ". . . it is clear that the parameter information disclosed by Gronemeyer includes dynamic parametric information". However, as established above and earlier in Appellant's Brief on Appeal, the sentinel of Gronemeyer identifies static configuration data of the inspected device. The configuration of the currently installed hardware and software is not changed during operation of the client computing device.

Even if the configuration data needed to identify replacements for existing hardware of software were to be construed as dynamic information, the Examiner has not fully appreciated the related limitations of Appellant's claims. Specifically, Claims 18, 28, and 35 each limit the dynamic parametric data to information "related to an electrical or mechanical operating parameter of customer equipment in an elevator installation or an escalator installation . . . being one of a usage parameter, an environmental parameter and mechanical deterioration". The log file information of Gronemeyer clearly is different from dynamic parametric data information related to an operating parameter, such as a usage parameter, an environmental parameter, or mechanical deterioration. Accordingly, the rejection of Claims 18, 28, and 35 under 35 U.S.C. 103(a) should be withdrawn.

Claims 19, 20, 22-27, 29-34, and 36-39:

In the Examiner's Answer at page 32, the Examiner stated:

Claims 19, 20, 22-27, 29-34, and 36-39:

These claims depend from one of Independent Claims 18 or 28 and as such are rejected based upon the arguments above, and the art as applied in the previous Office Actions.

These claims depend from one of independent Claims 18, 28, and 35 and are patentable for the reasons stated hereinabove

The rejection of Claim 21 under 35 U.S.C. 103(a):

In the Examiner's Answer at pages 32-33, the Examiner stated:

> The applicant argues that the combination of Gronemeyer, Ives and Palme does not disclose the web server generating said sales offer as an e-mail message for transmission to the client as recited in claim 21. However, the Gronemeyer reference discloses that the web server generates the sales offer as a web page in (Col 6, lines 35-48). Furthermore, Palme discloses encapsulating web pages in email documents on Page 1, lines 18-37. Thus the combination of Gronemeyer and Palme discloses generating a webpage that is encapsulated in an email message. The web page containing a sales offer generated by the web server. The applicant is reminded the term MIME as disclosed in Palme stands for Multipurpose Internet Mail Extensions and were created in order to extend the formatting email messages to include multipart message bodies, graphics, sounds, and animations as well as the original ASCII text message.

Neither Ives nor Palme teach or suggest "dynamic parametric data information" as recited in independent Claim 18. Claim 21 depends from Claim 18 and is likewise patentable for the reasons stated above.

(iv) *Conclusion:*

For the foregoing reasons, and the reasons presented in the Brief on Appeal filed February 23, 2009, it is respectfully requested that this Honorable Board REVERSE the outstanding rejections of Claims 18-39.

Respectfully submitted,

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